



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

September 3 2004

Richard Sanborn, VP and GM
Green Mountain Rifle Barrel Co., Inc.
153 W. Main Street
Conway, NH 03818

Re: Docket No. AF 04-054 – Green Mountain Rifle Barrel Co., Inc.

Dear Mr. Sanborn:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on September 9, 2004. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

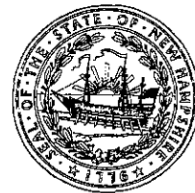

Michael Scialani,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, DES Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Linda Birmingham, DES WMD
James Martin, DES Public Information Officer



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



Green Mountain Rifle Barrel Co. Inc.
153 W. Main Street
Conway, New Hampshire 03818

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 04-054

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Green Mountain Rifle Barrel Co. Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, NH.
2. Green Mountain Rifle Barrel Co. Inc. ("Green Mountain") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on July 1, 1998. Green Mountain has a mailing address of 153 W. Main Street, Conway, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Green Mountain is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on December 1, 1995. EPA Identification Number NHD500012802 was assigned to Green Mountain's site located at 153 W. Main Street, Conway, NH.
4. On July 15, 2003, DES personnel inspected Green Mountain for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 03-36 ("LoD") to Green Mountain on December 9, 2003. Based on the violations observed

during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, as stated in the LoD, Green Mountain failed to conduct waste determinations on three (3) waste streams (*i.e.*, "Floor Washwater," the "Ultrafiltration Waste," and the "Sandblast Grit"), as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$4,500.
2. Specifically, as stated in the LoD, Green Mountain failed to document the time of inspection and the date and nature of repairs or remedial actions, as required by Env-Wm 509.02(a)(1) ("Violation 2"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area.
3. Specifically, as stated in the LoD, Green Mountain failed to conduct hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): two (2) years of annual training for Quality Programs Coordinator/Primary Emergency Coordinator Eric Gillette; no initial training for alternate emergency coordinators Jeff Whiting and William McNamara ("Violation 3"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a potential fine of \$5,500.
4. Specifically, as stated in the LoD, Green Mountain failed to have, within 100 feet of the Main Hazardous Waste Storage Area, an internal/external communication system capable of providing immediate contact with facility personnel and local authorities (*e.g.*, fire department), as required by Env-Wm 509.02(a)(4) ("Violation 4"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area.
5. Specifically, as stated in the LoD, Green Mountain failed to maintain a complete contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 5"). Env-C 612.07(e) authorizes a fine of \$2,000.
6. Specifically, as stated in the LoD, Green Mountain failed to post a complete emergency posting at the nearest telephone to the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(b) ("Violation 6"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
7. Specifically, as stated in the LoD, Green Mountain failed to have on file copies of four (4) hazardous waste manifests certified by the designated facility (*i.e.*, Manifest No. MAQ060844, Manifest No. NJA4032433, Manifest No. MAQ092596, and Manifest No. NJA4067067) for three (3) years from the date of signature by the generator, as required by Env-Wm 512.01(a)(1) ("Violation 7"). Env-C 612.08(a) authorizes a fine of \$300 per type of record.
8. Specifically, as stated in the LoD, Green Mountain failed to close one (1) container of universal waste lamps, except to add or remove universal waste, as required by Env-Wm 1102.03(c)(1) ("Violation 8"). For this violation, a fine of \$300 has been calculated pursuant to Env-C 610.

9. Specifically, as stated in the LoD, Green Mountain failed to store twelve (12) universal waste lamps in container(s) that meet the requirements of Env-Wm 1102.03(c), as required by Env-Wm 1112.03(a) ("Violation 9"). For this violation, a fine of \$1,000 for storage practices that pose a hazard to human health and the environment has been calculated pursuant to Env-C 610.

10. Specifically, as stated in the LoD, Green Mountain failed to label/mark one (1) container of universal waste lamps with any of the following markings: "Universal Waste – Lamps(s) ," "Waste Lamp(s) ," or "Used Lamp(s) ," as required by Env-Wm 1112.04 ("Violation 10"). For this violation a fine of \$100 for each container has been calculated pursuant to Env-C 610.

V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive fines associated with Violations 2, 4, 5, and 8 through 10, because they are not Class I violations.

2. DES believes the following fines are appropriate for Violations 1, 3, 6, and 7 which are Class I violations.

- a. Violation 1 is a class I violation. Green Mountain documented that two (2) waste streams were analyzed and determined to be non-hazardous. DES is thus seeking a penalty for failing to perform one (1) hazardous waste determination (*i.e.*, "Ultrafiltration Waste"). DES has determined that due to Green Mountain's high level of cooperation in providing information, its effort to correct the violation and its good faith effort to comply, that a 40% reduction should be applied. (*i.e.*, (20%) cooperation and (20%) good faith effort to comply). DES is thus seeking a fine of \$900.
- b. Violation 3 is Class I violation. DES has determined due to the fact that Primary Emergency Coordinator Eric Gillette's training was current at the time of the inspection, DES will not seek a fine for his two (2) missing annual reviews. DES is thus seeking a fine of \$3,500 for failing to provide initial training for two (2) Alternate Emergency Coordinators.
- c. Violation 6 is a Class I violation. Green Mountain documented that a 911 emergency sticker was posted by the phone. DES has determined that this violation should be reclassified as a Class II violation. DES is not seeking a fine for this violation.
- d. Violation 7 is a Class I Violation. No penalty reduction is recommended. DES is thus seeking a fine of \$300.

3. The total administrative fine for the Class I violations described above is \$4,700. However DES has determined that based on Green Mountain having no history of non-compliance with the hazardous waste requirements, that an additional penalty reduction of \$940 (20%) should be applied for a final offer of \$3,760.

4. Green Mountain agrees to pay \$3,760 upon execution of this Agreement by an authorized representative of Green Mountain.

5. Payment under Section V. Paragraph 4 shall be paid by certified check made payable to:
"Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095

6. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

7. By executing this Agreement, Green Mountain waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

8. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Green Mountain, and the Director of the Waste Management Division, and the Commissioner of DES.

9. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

GREEN MOUNTAIN RIFLE BARREL CO. INC.

COPY

By: Mr. Jim Stephens, President
Duly Authorized

Richard Sanborn

Vice President and General Manager

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Anthony P. Giunta, P.G.

Director

Waste Management Division

COPY

Michael P. Nolin, Commissioner

7-13-04

Date

8/26/04

Date

9/2/04

Date